

**Law Offices of Ning Ye, Esq.**

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**FAX COVER SHEET**

ATTENTION: Matthew S. Fenster, Esq.

CO. NAME \_\_\_\_\_

FAX NUMBER: 1-212-504-6666

CLIENT NAME \_\_\_\_\_

FROM: Ning Ye, Esq.

RE \_\_\_\_\_

DATE: 10/15/2007

PAGES (INCL. COVER): 4

COMMENTS: P/S See attached.

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**LAW OFFICES OF NING YE, ESQ.**

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October 9, 2006

The Honorable Richard J. Sullivan  
United States District Court for the  
Southern District of New York  
U.S. Courthouse  
500 Pearl Street, Room 615  
New York, NY 10007

Re.: Hope v. HUD, St. Margaret House, et al (07-CV 4726 (RJS))  
Via FedEx: 860425742692

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Dear Judge Sullivan:

This letter is respectfully written in response to the correspondence issued by Matthew S. Fenster, Esq., Defense counsel for Defendants dated October 12, 2007.

Counsel for the Plaintiff expresses his respectful dissent to Defendants' unfounded charge on what they alleged "deficiency of service". Plaintiff's Complaint and Summons was properly served, through professional process server, upon the defendants, via their Senior Coordinator Ms. Chuny in their principal place of business operation, as early as on July 11, 2007, pursuant to Fed. R. Civ. Pro, Rule 4 (Please see the attached Affidavit of Service by professional Process Service. Such a form of service has been normally taken and always honored by all litigants in federal civil actions as practical matter.) Please kindly note that Plaintiff had not only served the Defendant with a Summons, but also a full-length complaint with supporting evidence, the full pleading paper pack. The Defendant, while having completely failed to properly answer the Complaint, now attempts to shift the gravity of their own failure, by groundlessly arguing that the Plaintiff has allegedly "failed" to have served the Defendants properly pursuant to Rule 4.

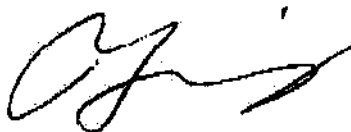
With the well documented evidence of service presented, Counsel for the Defendant respectfully prays that the Defendants' argument on Service defects be properly and instantly denied. The 20-day period for the Defendants to answer the Plaintiff's Complaint has long passed, while these defendant, unlike Co-Defendant HUD, which had properly contacted the Plaintiff's counsel, and properly moved for enlargement of time, did nothing constructive to show their respect of this Honorable Court's jurisdiction, while even failed to have either moved for enlargement of time, or for filing the response outside the time frame. Instead, Defendants St. Margaret House and Breed, now, 91 days after the Service upon them being effectuated, raised the

propriety of the Service issues. Such a behavior appears on its very surface, lacks of candid and of good faith. The Defendant should be ordered to show cause why their inaction should not be deemed as contempt of Federal Court, henceforth, why an entry of default should not be entered against them.

By taking this opportunity, Plaintiff, by and through his undersigned counsel, respectfully prays that an entry of default be made by the Clerk of this Honorable Court accordingly.

Wherefore, Plaintiff respectfully moves that the Defendants' argument that the Service was not effectively effectuated should be instantly denied. An entry of default should be entered by this Honorable Court leading to Default Judgment.

Respectfully submitted by

A handwritten signature in black ink, appearing to be 'Ning Ye', written in a cursive style.

Ning Ye, Esq  
Attorney for the Plaintiff

cc. Matthew S. Fenster, Esq. (via Facsimile: 212-504-6666)  
John D. Clopper, Esq. (via Facsimile)

## AFFIDAVIT OF SERVICE

U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK  
NEW YORK COUNTY

Index #: 07 CV 4726

Date Filed: \_\_\_\_\_

ATTORNEY(S):

ADDRESS: File No \_\_\_\_\_

JOSHUA HOPE

vs.

Plaintiff(s)/Petitioner(s)

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, ST. MARGARET HOUSE, JOSEPH BREED

Defendant(s)/Respondent(s)

STATE OF NEW YORK, COUNTY OF QUEENS SS:

PAUL VARGAS, being duly sworn deposes and says: Deponent is not a party herein, is over 18 years of age and resides in New York State. On July 11, 2007 at 1:40 PM at 49 FULTON STREET, NEW YORK, NY 10038, deponent served the within

## SUMMONS/COMPLAINT

with index Number 07 CV 4726, and Date File \_\_\_\_\_, endorsed thereon,

on: JOSEPH BREED, ST. MARGARET HOUSE

Defendant therein named

#1 INDIVIDUAL By delivering a true copy of each to said recipient personally; deponent knew the person served to be the person described as said person therein.

☐

#2 CORPORATE By delivering to and leaving with \_\_\_\_\_ and that deponent knew the person so served to be Managing Agent of the corporation, and authorized to accept service on behalf of the corporation.

TION

☐

Service was made in following manner after your deponent was unable, with due diligence, to serve the witness/defendant in person, and an attempt to locate the defendant's place of employment.

#3 SUITABLE  
AGE PERSON

By delivering a true copy of each to a person of suitable age and discretion

MS. CHUNY (SENIOR COORDINATOR)

☒

Said premises is recipient's ☒ actual place of business ☐ dwelling house (usual place of abode) within the state.

#4 AFFIXING  
TO DOOR

By affixing a true copy of each to the door of said premises, which is recipient's: ☒ actual place of business ☐ dwelling house (place of abode) within the state.

☐

#5 MAIL COPY

On July 12, 2007 deponent completed service under the last two section by depositing a copy of the SUMMONS/COMPLAINT to the above address

☒

in a 1st Class postpaid properly addressed envelope marked "Personal and Confidential" in an official depository under the exclusive care and custody of the United States Post Office in the State of New York. Certified Mail No. \_\_\_\_\_

Deponent was unable, with due diligence to find recipient or a person of suitable age and discretion, having called thereat on \_\_\_\_\_ At \_\_\_\_\_

on \_\_\_\_\_ At \_\_\_\_\_

on \_\_\_\_\_ At \_\_\_\_\_

#7 DESCRIPTION

A description of the Defendant, or other person served, or spoken to on behalf of the Defendant is as follows:

☒

Sex FEMALE Color of Skin WHITE Color of Hair BLACK Age 40-49 Yrs. Height 5'0/5'3

use with #1, 2 or 3

Weight 100-130 Lbs. Other Features:

#8 WIT. FEES

the authorized witness fee and / or traveling expense were paid (tendered) to recipient.

☐

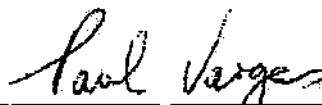
Sworn to me on this 12 day of July, 2007

THOMAS A. DUNDAS

NOTARY PUBLIC, State of New York

NO. 01DU6016619, Qualified in Queens County

Commission Expires 11/30/2010



PAUL VARGAS

Server's Lic # 1258622